

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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RONALD WILLIAMS,

Plaintiff,

- v -

MEMORANDUM ORDER

MASPETH SUPPLY COMPANY, LLC, et al.,

CV-13-1175 (WFK)(VVP)

Defendants.

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During the conference on January 8, 2014, the court reserved decision on one aspect of the plaintiff's request for various extensions of discovery deadlines, specifically, the deadline for identifying experts. Decision was reserved to permit the court to consider certain deposition testimony provided by the plaintiff which had been inadvertently omitted from the opposition submitted by the defendants Maspeth Supply Company LLC and Harvey Lyons. That testimony has now been submitted. Having reviewed that testimony the court concludes that, although one might infer from that testimony that the plaintiff was making a causal connection between his drug use and the termination of his employment, that is not expressly stated. Moreover, the testimony is limited. Accordingly, the failure by the plaintiff's present attorney, who did not attend the deposition, to appreciate the causal connection and the need for an expert to provide testimony about such a connection does not constitute an utter lack of due diligence. In light of the potential significance of the testimony and the fact that a late designation of an expert will not appreciably delay the completion of discovery (the plaintiff's expert has already provided disclosures in accordance with the scheduling order), sufficient cause is established to permit the late designation of a psychological expert by the plaintiff. To avoid any prejudice to the defendants, their deadline

for providing disclosures by a rebuttal expert is extended to March 31, 2014. The defendants' expert is entitled to conduct an examination of the plaintiff pursuant to Rule 35 in order to issue the report.

SO ORDERED:

Viktor V. Pohorelsky

VIKTOR V. POHORELSKY
United States Magistrate Judge

Dated: Brooklyn, New York
January 10, 2014